IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

Bail Appl..No. 4477 of 2007(R)

CRIME NO.458/07 OF KAYAMKULAM POLICE STATION

PETITIONER/1ST ACCUSED:

RAJEEV,
PUTHENPURACKAL THEKKE THARAYIL,
CHERAVALLY MURI, KAYAMKULAM VILLAGE.

BY ADV. SRI.P.SREEKUMAR
SRI.K.S.MANU (PUNUKKONNOOR)

RESPONDENTS: COMPLAINANT:

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1. SUB INSPECTOR OF POLICE,
KAYAMKULAM POLICE STATION.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 4477 OF 2007

Dated this the 1st day of August, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. Altogether, there are three accused persons. The crux of the allegations is that the de facto complainant was attacked by the accused persons while he was addressing a gathering. The de facto complainant has suffered only insignificant injuries. The allegations have been raised, inter alia, under Secs.323 and 308 of the IPC. The alleged incident occurred on 24/6/07. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Exaggerated allegations are raised and the offence under Sec.308 of the IPC is included only because of the political clout of the de facto complainant who belongs to C.P.M. The nature of the injuries suffered and

the nature of the alleged incident must eloquently convey that the introduction of Sec.308 of the IPC is not justified, submits the learned counsel for the petitioner.

3. The wound certificate has been read over to me. There is nothing to indicate that there was any violence inflicted on the de facto complainant with any dangerous weapons. The alleged incident took place where the de facto complainant was addressing a gathering. I am, in these circumstances, satisfied that there is merit in the contention that the inclusion of Sec.308 of the IPC is not justified. I shall carefully avoid any detailed discussions on merits or expression of final opinion on the question. This, I am satisfied, is a fit case where appropriate directions under Sec.438 of the Cr.P.C. can and ought to be issued subject, of course, to appropriate conditions which shall ensure the interests of a fair, efficient and expeditious investigation.

4. In the result, this petition is allowed. Following

directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 8/8/07. He shall be released on regular bail on his executing a bond for Rs.50,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 4 p.m. on 9/8/07 and 10/8/07. During this period, the Investigator shall be entitled to interrogate the petitioner in custody and take all necessary steps. Thereafter, on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, he shall so make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall

thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 8/8/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 8/8/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge